

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**HENRY JOSEPH LANERI, III**

**PLAINTIFF**

**v.**

**CAUSE NO. 1:14CV234-LG-RHW**

**RONALD KING, et al.**

**DEFENDANTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DISMISSING COMPLAINT FOR FAILURE TO STATE CLAIM**

This cause comes before the Court on the Report and Recommendation [42] of United States Magistrate Judge Robert H. Walker entered in this cause on September 18, 2015. Plaintiff Laneri filed this lawsuit against officials at the South Mississippi Correctional Institution pursuant to 42 U.S.C. § 1983. He complains of a short argument and physical altercation with another inmate, who was passing Laneri's dinner tray through the hole in the cell door.

Laneri is proceeding in this case *in forma pauperis*, and therefore Magistrate Judge Walker reviewed the claims under authority of the Prison Litigation Reform Act of 1996. Magistrate Judge Walker determined that the facts alleged in the Complaint and developed in the Omnibus hearing conducted October 16, 2014, did not show a violation of Laneri's constitutional rights. The Magistrate Judge recommended that the claims be dismissed for failure to state a claim.

The Report and Recommendation containing the Magistrate Judge's findings and conclusions was mailed to Laneri at his last known address of record. The acknowledgment of receipt filed with the Court shows Laneri received the Report and Recommendation on September 21, 2015. (ECF No. 43).

Laneri has not filed an objection to the Magistrate Judge's findings and conclusions within the time allowed. Under these circumstances, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having thoroughly reviewed the Report and Recommendation, the Court finds it neither clearly erroneous nor contrary to law. The Magistrate Judge properly found that Laneri's constitutional rights were not implicated by the incident or the prison officials' response to the incident, and therefore Laneri has not stated a § 1983 claim. The Report and Recommendation will be adopted as the findings and conclusions of this Court.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Report and Recommendation [42] of United States Magistrate Judge Robert H. Walker entered in this cause on September 18, 2015, should be, and the same hereby is, adopted as the findings of this Court.

**IT IS FURTHER ORDERED AND ADJUDGED** that this case is **DISMISSED**.

**SO ORDERED AND ADJUDGED** this the 13<sup>th</sup> day of October, 2015.

s/ Louis Guirola, Jr.  
LOUIS GUIROLA, JR.  
CHIEF U.S. DISTRICT JUDGE